

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**CYRUS JONATHAN GEORGE,**

**Plaintiff,**

**v.**

**2:06 CV 90  
(Maxwell)**

**UNITED STATES OF AMERICA,  
DEBBIE STEVENS,  
JOYCE FRANCIS,  
ALICE LOWE AND  
DUANE HEADY,**

**Defendants.**

**ORDER**

It will be recalled that on September 15, 2006, *pro se* Plaintiff Cyrus Jonathan George, an inmate at FCI Gilmer in Glenville, West Virginia, filed a civil rights complaint against the above-named Defendants.

It will further be recalled that the case was referred to United States Magistrate Judge John S. Kaull in accordance with Rule 83.01 of the Local Rules of Prisoner Litigation Procedure and 28 U.S.C. § 1915(e).

On July 1, 2008, United States Magistrate Judge John S. Kaull issued a Report And Recommendation/Opinion wherein he recommended that the Defendant's Motion To Dismiss Or, Alternatively, Motion For Summary Judgment be granted; that the Plaintiff's Motion For Summary Judgment be denied; and that the Plaintiff's Complaint be dismissed without prejudice.

In his Report And Recommendation/Opinion, Magistrate Judge Kaull provided the parties with ten (10) days from the date of service of said Report And Recommendation/Opinion in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a

judgment of this Court based upon said Report And Recommendation/Opinion.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Kaull's July 1, 2008, Report And Recommendation/Opinion have been filed and that this matter is now ripe for review.

Upon consideration of Magistrate Judge Kaull's July 1, 2008, Report And Recommendation/Opinion, and having received no written objections thereto<sup>1</sup>, it is

**ORDERED** that the Report And Recommendation/Opinion entered by United States Magistrate Judge John S. Kaull on July 1, 2008 (Docket No. 36), be, and the same is hereby, **ACCEPTED** in whole and the above-styled civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Defendant's Motion To Dismiss Or, Alternatively, Motion For Summary Judgment (Docket No. 30) be, and the same is hereby, **GRANTED**. It is further

**ORDERED** that the Plaintiff's Motion For Summary Judgment (Docket No. 33) be, and the same is hereby, **DENIED**. It is further

**ORDERED** that the Plaintiff's Complaint (Docket No. 1) be, and the same is hereby, **DISMISSED** without prejudice. It is further

**ORDERED** that the Clerk of Court shall enter judgment for the Defendants. It is further

**ORDERED** that, should the Plaintiff desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal

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<sup>1</sup>The failure of a party to file an objection to a Report And Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit copies of this Order to the *pro se* Plaintiff and to counsel of record for the Defendants.

**ENTER:** July 25, 2008

**/S/ Robert E. Maxwell**  
United States District Judge